

# NOTICE OF DECISION

PLANNING DIVISION  
555 LIBERTY ST. SE, RM 305  
SALEM, OREGON 97301  
PHONE: 503-588-6173  
FAX: 503-588-6005



*Si necesita ayuda para comprender esta información, por favor llame  
503-588-6173*

## DECISION OF THE PLANNING ADMINISTRATOR

### TREE CONSERVATION PLAN ADJUSTMENT: TCPA23-04

APPLICATION NO.: 23-118455-PLN

NOTICE OF DECISION DATE: October 18, 2023

**SUMMARY:** A Tree Conservation Plan Adjustment (TCPA) to Tree Conservation Plan Case No. 21-02 to remove one additional tree.

**REQUEST:** This Tree Conservation Plan Adjustment is the second tree conservation plan adjustment to Tree Conservation Plan Case No. TCP21-02 was submitted with a Subdivision for the subject property (SUB21-01). This adjustment modifies TCP21-02 and TCPA21-13 by designating one additional tree for removal selected initially for preservation.

**APPLICANT:** Wind River Homes LLC

**LOCATION:** 6731 Devon Avenue SE, Salem OR 97306

**CRITERIA:** Salem Revised Code (SRC) Chapters 808.040.

**FINDINGS:** The findings are in the attached Decision dated October 18, 2023.

**DECISION:** The **Planning Administrator APPROVED** TCPA23-04 subject to the following conditions of approval:

- Condition 1:** The conditions of SUB21-01 shall be complied with during all construction activities.
- Condition 2:** Prior to final occupancy, four 2-inch maple trees shall be planted on Lot 44.
- Condition 3:** No tree designated for preservation may be removed or critically damaged unless and until a Tree Conservation Plan Adjustment application is submitted to the Community Development Department and approval has been granted by the Planning Administrator. Failure to preserve trees marked for preservation may result in a civil penalty.
- Condition 4:** Prior to and during any grubbing, grading and construction activities, all trees designated for preservation shall be protected from removal or critical damage. Trees designated for protection shall be clearly marked on-site. Required tree protection measures during construction shall consist of protective fencing placed under the canopy of the tree. No grubbing, grading, construction, vehicle parking, or storage/disposal of materials/fill shall be allowed inside the protective fencing.

- Condition 5:** Adherence to the Tree Conservation Plan Adjustment is required at the time of building permit application. All trees designated for preservation under the Tree Conservation Plan Adjustment shall be protected, as required above, until issuance of a Notice of Final Completion for each affected parcel/lot.
- Condition 6:** Any changes to the approved Tree Conservation Plan Adjustment must be submitted to the Community Development Department in the form of another Tree Conservation Plan Adjustment application for review and approval.

The applicant, and all representatives thereof, shall comply with all applicable development standards of SRC Chapter 808. The approved Tree Conservation Plan Adjustment is on file with the City of Salem and is binding on the lots created by the division of the subject property. No tree designated for removal on the approved Tree Conservation Plan Adjustment shall be removed or critically damaged prior to the Tree Conservation Plan Adjustment approval date.

Approval of a Tree Conservation Plan Adjustment application does not expire.

Case Manager: Lydia Keller, Planner I, [lkeller@cityofsalem.net](mailto:lkeller@cityofsalem.net), 503-540-2326

This decision is final unless written appeal from the applicant or the owner of the subject property is filed with the City of Salem Planning Division Room 305, 555 Liberty Street SE, Salem OR 97301 no later than **5:00 p.m., Wednesday, November 1, 2023.** The appeal must state where the decision failed to conform to the approval criteria in SRC Chapter 808. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Salem Hearings Officer will review the appeal at a public hearing. After the hearing, the Hearings Officer may amend, rescind, or affirm the action or refer the matter to staff for additional information.

<http://www.cityofsalem.net/planning>

## BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM

### DECISION

**IN THE MATTER OF APPROVAL OF  
ADJUSTMENT CASE NO. TCPA23-04  
6731 DEVON AVE SE**

**) FACTS AND FINDINGS  
)  
) October 18, 2023**

In the matter of the application for a Tree Conservation Plan Adjustment, the Planning Administrator, having received and reviewed evidence and the application materials, makes the following findings and adopts the following order as set forth herein.

### REQUEST

A Tree Conservation Plan Adjustment (TCPA) to Tree Conservation Plan Case No. 21-02 to remove one additional tree for a property zoned RS (Single Family Residential) and located at 6731 Devon Ave SE (Marion County Assessor's Map and Tax Lot number 083W22CA/4400). (**Attachment A**)

This tree conservation plan adjustment is the second tree conservation plan adjustment to Tree Conservation Plan Case No. TCP21-02 was submitted with a Subdivision for the subject property (SUB21-01). This adjustment modifies TCP21-02 and TCPA21-13 by designating one additional tree for removal selected initially for preservation.

### PROCEDURAL FINDINGS

1. On September 7, 2021, an application for a Tree Conservation Plan Adjustment was submitted for property located at 6719 Devon Ave SE (Lot 44) (**Attachment B**).
2. On October 18, 2021, Tree Conservation Plan Adjustment Case No. TCPA21-13 was approved for the subject property. The Tree Conservation Plan Adjustment identified one Fir tree, resulting in 17 trees designated for preservation and 59 for removal (25.8 percent of trees to remain).
3. On May 3, 2021, Tree Conservation Plan Case No. TCP21-02, was approved for the subject property in conjunction with Subdivision and Adjustment Case No. SUB21-01MOD1 (6719 and 6743 Devon Ave SE; Marion County Assessor's Map and Tax Lot number 083W22CA/4700). The original tree conservation plan identified a total of 66 trees on the property, with 19 trees identified for preservation and 47 trees identified for removal (28.8 percent of trees to remain).

### SUBSTANTIVE FINDINGS

#### **1. Proposal**

The Tree Conservation Plan Adjustment will reduce the preservation to 24.2% by removing an additional one tree (**Attachment B**). A summary of the total tree identified for preservation and removal under the original tree conservation plan and this adjustment are included in the table below:

Tree Conservation Plan Summary						
Case No.	Approval Date	Trees Preserved	Percentage Preserved	Trees Removed	Percentage Removed	Total Trees on subject property
TCP21-02	May 3, 2021	19	28.8%	47	71.2%	66
TCPA21-13	October 1, 2021	17	25.8%	49	74.2%	66
TCPA23-04	October 18, 2023	16	24.2%	50	75.8%	66

## 2. Applicability

Except as provided under the following exceptions, no tree or native vegetation designated for preservation in a tree conservation plan shall be removed unless a tree conservation plan adjustment has been approved pursuant to this section.

Exceptions: A tree conservation plan adjustment is not required for:

- A tree that has been removed due to natural causes; provided, however, that evidence must be provided to the Planning Administrator demonstrating the removal was due to natural causes.
- Removal of a hazardous tree, subject to a tree and vegetation removal permit issued under SRC 808.030.
- Removal necessary to effect emergency actions excepted under SRC 808.030(a)(2)(H).

## 3. Analysis of Tree Conservation Plan Adjustment Approval Criteria:

The approval criteria for a Tree Conservation Plan are found in SRC 808.040(d).

**SRC 808.404(d)(1):** There are special conditions that could not have been anticipated at the time the tree conservation plan was submitted that create unreasonable hardships or practical difficulties which can be most effectively relieved by an adjustment to the tree conservation plan.

**Finding:** The applicants indicates that removal of one 30-inch Fir Tree located on Lot 44 is required due to after the need to grade within the critical root zone. Because the impacts of grading and development were not anticipated, an adjustment is necessary to remove. Staff finds this criterion satisfied (**Attachment C**).

**SRC 808.040(d)(2)** When the tree conservation plan adjustment proposes the removal of a significant tree, there are no reasonable design alternatives that would enable preservation of the tree.

**Finding:** There are no significant trees proposed for removal. At the time of the original TCP, the tree in question was not identified as a significant tree. Due to the structural concerns during and after construction to the proposed homes the trees present an unforeseen hazard creating a hardship on the future residents of the homes. The tree is now considered a significant tree and based on the location and need for grading there are no reasonable design alternative that would enable preservation of these trees. This criterion is met.

**SRC 808.040(d)(3) When the tree conservation plan adjustment proposes the removal of a tree or native vegetation within a riparian corridor, there are no reasonable design alternatives that would enable preservation of the tree or native vegetation.**

**Finding:** No riparian corridors are located on the subject property; therefore, no riparian trees or native vegetation will be removed from the site. This criterion is not applicable.

**SRC 808.040(d)(4) When the tree conservation plan adjustment proposes to reduce the number of trees preserved in the original tree conservation plan below 25 percent, only those trees reasonably necessary to accommodate the proposed development are designated for removal.**

**Finding:** The applicant originally submitted a tree conservation plan indicating 52 trees out of a total of 66 identified trees on the subject site would be removed, leaving only 28.8 percent of the trees for preservation. The previous TCPA, removed two additional trees reducing the overall preservation to 25.8%. With the proposed removal of the 30-inch Pine tree on Lot 44, the overall subdivision will be reduced below the required 25% preservation requirement. Therefore, to mitigate the preservation rate dropping below 25% the applicant has proposed to replace the tree with four 2-inch Maple Trees. The planting of four trees will exceed the requirements of SRC 808.050, therefore the following condition applies (**Attachment D**):

**Condition 1:** The conditions of SUB21-01 shall be complied with during all construction activities.

**Condition 2:** Prior to final occupancy, four 2-inch maple trees shall be planted on Lot 44.

#### **4. SRC Chapter 808 Planting Requirements**

SRC Chapter 808.050 establishes tree planting requirements for lots or parcels to be used for Single-Family or Two-Family uses. The specific number of trees that must be provided on each lot is based upon the requirements of Table 808-1, as shown below:

**Table 808-1**

<b>Lot Size</b>	<b>Required Trees</b>
Up to and including 6,000 square feet	2
6,001 to 7,000 square feet	3
7,001 to 8,000 square feet	4
8,001 to 9,000 square feet	5
Above 9,000 square feet	6

In the event there are insufficient existing trees on a lot or parcel to meet the requirements of Table 808-1, the deficiency shall be made up by planting trees that are at least 1.5 inches in caliper.

**IT IS HEREBY ORDERED**

The proposed Tree Conservation Plan Adjustment is consistent with the provisions of SRC Chapter 808 and is hereby **APPROVED**, subject to SRC Chapter 808 and the following conditions:

- Condition 1:** The conditions of SUB21-01 shall be complied with during all construction activities.
- Condition 2:** Prior to final occupancy, four 2-inch maple trees shall be planted on Lot 44.
- Condition 3:** No tree designated for preservation may be removed or critically damaged unless and until a Tree Conservation Plan Adjustment application is submitted to the Community Development Department and approval has been granted by the Planning Administrator. Failure to preserve trees marked for preservation may result in a civil penalty.
- Condition 4:** Prior to and during any grubbing, grading and construction activities, all trees designated for preservation shall be protected from removal or critical damage. Trees designated for protection shall be clearly marked on-site. Required tree protection measures during construction shall consist of protective fencing placed under the canopy of the tree. No grubbing, grading, construction, vehicle parking, or storage/disposal of materials/fill shall be allowed inside the protective fencing.
- Condition 5:** Adherence to the Tree Conservation Plan Adjustment is required at the time of building permit application. All trees designated for preservation under the Tree Conservation Plan Adjustment shall be protected, as required above, until issuance of a Notice of Final Completion for each affected parcel/lot.
- Condition 6:** Any changes to the approved Tree Conservation Plan Adjustment must be submitted to the Community Development Department in the form of another Tree Conservation Plan Adjustment application for review and approval.



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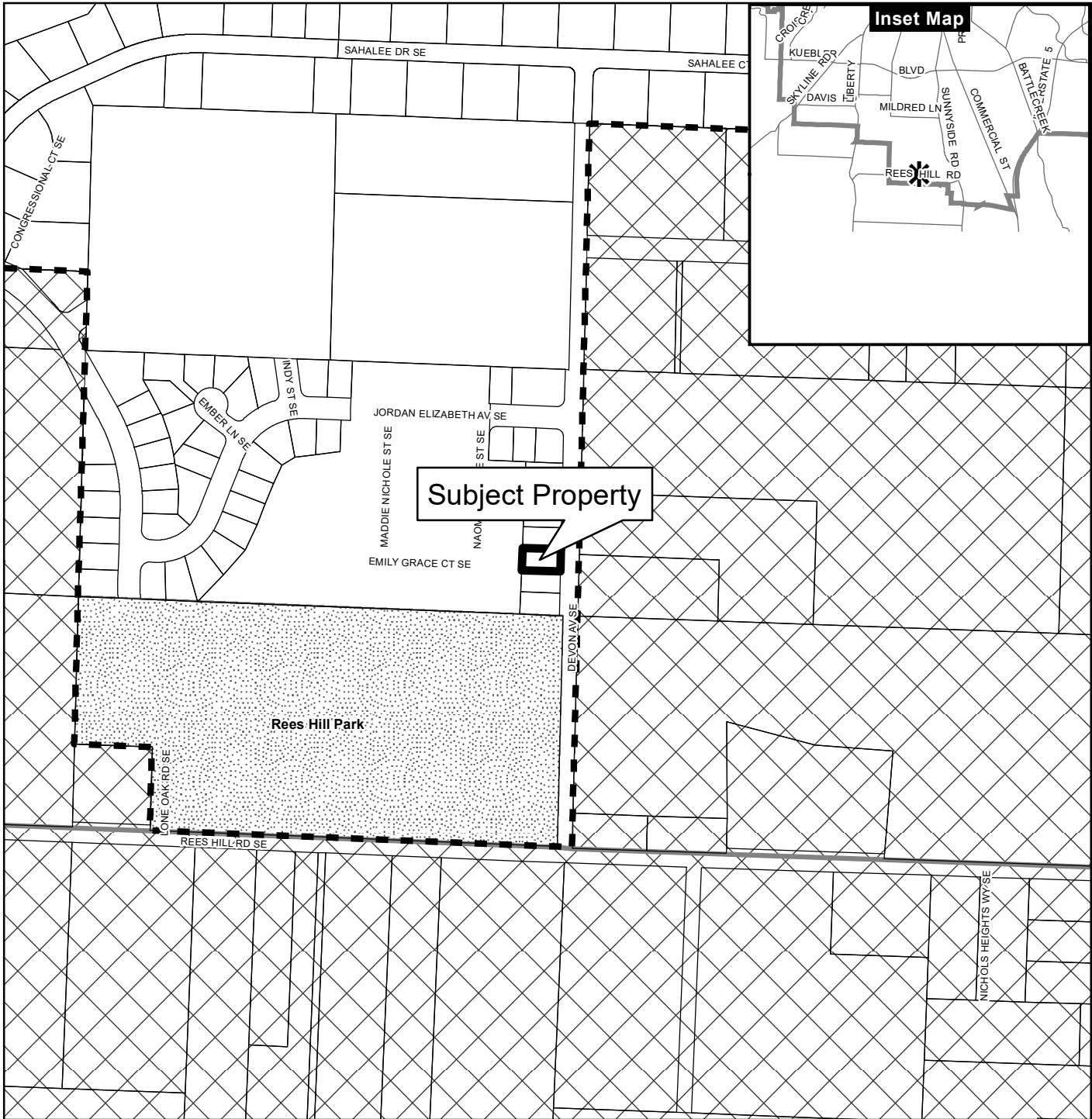
Lydia Keller, Planner I, on behalf of,  
Lisa Anderson-Ogilvie, AICP  
Planning Administrator

Attachments:

- A. Vicinity Map
- B. Approved Tree Conservation Plan
- C. Site Plan
- D. Applicant's Written Statement

# Vicinity Map

## 6731 Devon Avenue SE



### Legend

- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools



Parks



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0 100 200 400 Feet



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SALEM, OREGON 97301  
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## PLANNING ADMINISTRATOR DECISION FOR TREE CONSERVATION PLAN

**CASE NO.:** TCP21-02  
**AMANDA NO.:** 21-105774-NR  
**DATE OF DECISION:** May 3, 2021  
**PROPERTY LOCATION:** 6719 Devon Avenue SE  
**APPLICANT:** HSF Development LLC

### REQUEST

A new Tree Conservation Plan in conjunction with a Phased Subdivision (Case No. SUB21-01) proposing the preservation of 18 trees, or 28.8 percent, out of a total of 66 trees on the property. The subject property is approximately 19.89 acres in size, zoned RS (Single Family Residential), and located at 6719 Devon Avenue SE (Marion County Assessor's Map and Tax Lot number 083W22C / 0300).

### FINDINGS

The subject property is located at 6719 Devon Avenue SE (**Attachment A**). The tree conservation plan (**Attachment B**) was submitted in conjunction with a new subdivision application for the subject property (Case No. SUB21-01). A previous Tree Conservation Plan (TCP19-10) is no longer valid with the expiration of the previous subdivision application.

The tree conservation plan identifies a total of 66 trees above 10 inches diameter-at-breast-height (dbh) on the property, with 19 trees identified for preservation.

There are no heritage trees, significant trees, or riparian corridor trees or vegetation located on the property.

#### 1. **Analysis of Tree Conservation Plan Approval Criteria:**

- (1) No heritage trees are designated for removal.

**Finding:** There are no heritage trees located on the subject property; therefore, the preservation requirements of SRC 808.035(d)(1) are not applicable to the tree conservation plan.

- (2) No significant trees are designated for removal, unless there are no reasonable design alternatives that would enable preservation of such trees.

**Finding:** There are no significant trees located on the subject property; therefore, the preservation requirements of SRC 808.035(d)(2) are not applicable to the tree conservation plan.



- (3) No trees or native vegetation in a riparian corridor are designated for removal, unless there are no reasonable design alternatives that would enable preservation of such trees or native vegetation.

**Finding:** The Champion Swale waterway is located adjacent to the west edge of the subject property, creating a riparian corridor for portions of the lots at the southwest corner of the subdivision. The tree conservation plan identifies a 20" Cherry tree for removal on Lot 5 that measures within this riparian corridor; no justification for removal of the riparian tree was provided. Upon further discussion with staff, the applicant agreed to preserve the riparian tree, establishing the following condition as part of this approval:

**Condition 1:** The applicant shall preserve the 20" Cherry tree on Lot 5 as a designated riparian tree.

With the above condition in place, there is no proposed removal within the riparian corridor on the subject property; therefore, the tree conservation plan complies with the requirements of SRC 808.035(d)(3).

- (4) Not less than 25 percent of all trees located on the property are designated for preservation; provided, however, if less than 25 percent of all trees located on the property are designated for preservation, only those trees reasonably necessary to accommodate the proposed development shall be designated for removal.

**Finding:** The applicant originally submitted a tree conservation plan indicating 54 trees out of a total of 64 identified trees on the subject site would be removed, leaving only 15 percent of the trees for preservation, thus dropping below the minimum 25 percent retention standard in SRC 808.035(d)(4). Staff determined with the subdivision review that an additional six trees originally designated for removal would be re-designated for preservation to maintain the 25 percent retention standard. As such, a version of Condition 11 placed on the property under SUB21-01 will be included on this approval to ensure consistency between the two applications. Therefore, the following condition applies:

**Condition 2:** The applicant shall preserve all five trees on Lot 65 and a 22" Fir tree on Lot 88.

A recount of the tree conservation plan identified a total of 66 trees on the property, with a total of 19 trees designated for preservation with the above conditions in place. As a result, the tree conservation plan preserves approximately 29 percent of the trees on the subject property and exceeds the minimum tree preservation requirement of 25 percent. Because the tree conservation plan preserves more than 25 percent of the existing trees on the subject properties, the tree conservation plan complies with the requirements of SRC 808.035(d)(4).

## 2. SRC Chapter 808 Planting Requirements

SRC Chapter 808.050 establishes tree planting requirements for lots or parcels to be used for Single-Family or Two-Family uses. The specific number of trees that must be provided on each lot is based upon the requirements of Table 808-1, as shown below:

**Table 808-1**

Lot Size	Required Trees
Up to and including 6,000 square feet	2
6,001 to 7,000 square feet	3
7,001 to 8,000 square feet	4
8,001 to 9,000 square feet	5
Above 9,000 square feet	6

In the event there are insufficient existing trees on a lot or parcel to meet the requirements of Table 808-1, the deficiency shall be made up by planting trees that are at least 1.5 inches in caliper.

### **DECISION**

The proposed Tree Conservation Plan is consistent with the provisions of SRC Chapter 808. The Tree Conservation Plan is hereby APPROVED, subject to SRC Chapter 808 and the following conditions, adopted pursuant to SRC 808.050(e)(2):

- Condition 1:** The applicant shall preserve the 20" Cherry tree on Lot 5 as a designated riparian tree.
- Condition 2:** The applicant shall preserve all five trees on Lot 65 and a 22" Fir tree on Lot 88.
- Condition 3:** The conditions of SUB21-01 shall be complied with during all construction activities.
- Condition 4:** All trees designated for retention under the tree conservation plan shall be marked and protected during construction. Any heritage tree or significant tree shall require that at least 70 percent of a circular area beneath the tree measuring one foot in radius for every one inch of dbh be protected by an above ground silt fence or its equivalent. Tree protection measures shall remain in place until the issuance of Notice of Final Completion for the Single-Family dwelling or Two-Family dwelling.
- Condition 5:** Each lot or parcel within the development proposal shall comply with the tree planting requirements set forth in SRC 808.050.

The applicant, and all representatives thereof, shall comply with all applicable development standards of SRC Chapter 808. The approved Tree Conservation Plan is on file with the City of Salem and is binding on the lots created by the subdivision of the subject property. No tree designated for removal on the approved Tree Conservation Plan shall be removed or critically damaged prior to the Tree Conservation Plan approval date.



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Jamie Donaldson, Planner II, on behalf of,  
Lisa Anderson-Ogilvie, AICP  
Planning Administrator

Attachments:

- A. Vicinity Map
- B. Approved Tree Conservation Plan

This decision is final unless written appeal from the applicant or the owner of the subject property is filed with the City of Salem Planning Division Room 305, 555 Liberty Street SE Salem OR 97301 no later than **Monday, May 17, 2021 by 5:00 p.m.** The appeal must state where the decision failed to conform to the approval criteria for a tree conservation plan adjustment (SRC Chapter 808). The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Salem Hearings Officer will review the appeal at a public hearing. After the hearing, the Hearings Officer may amend, rescind, or affirm the action or refer the matter to staff for additional information. Approval of a tree conservation plan adjustment application does not expire.

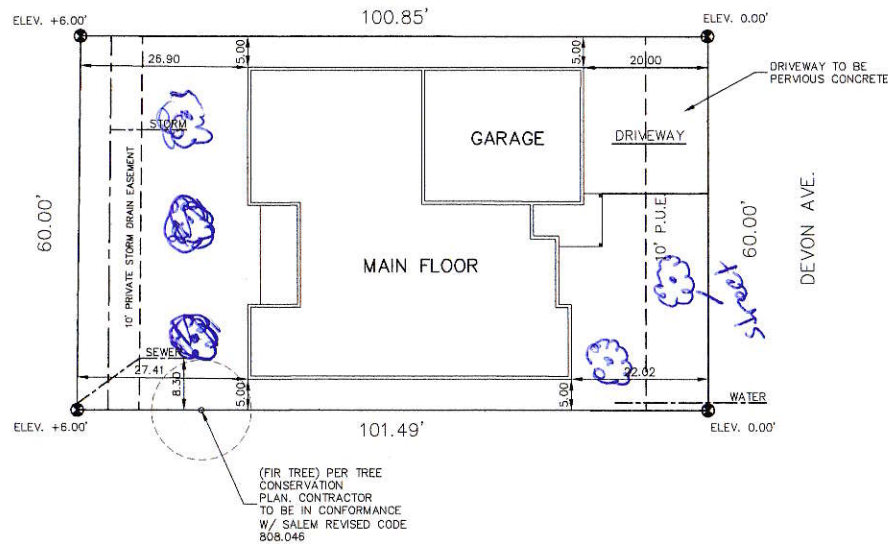
cc: Alan Kessler, GIS

# SITE PLAN

CONTRACTOR:

WIND RIVER HOMES  
(503) 983-9188

LOT# 44  
6,070 SF


$$1'' = 20'$$


\* CONTRACTOR TO VERIFY ALL  
DIMENSIONS IN FIELD\*

\* ALL UTILITY LOCATIONS ARE  
TO BE DETERMINED BY CONTRACTOR.\*

\* ALL PROPERTY ELEVATIONS  
ARE TO BE DETERMINED BY CONTRACTOR.\*

SITE PLAN  
LOT#44. 6731 DEVON AVE. S.E.  
SALEM, OREGON  
SCALE: 1" = 20.00'

SUBDIVISION: AFFINITY ESTATES LOT: 44 BLK: \_\_\_\_\_  
NAME: \_\_\_\_\_ PH. # \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ CDA: \_\_\_\_\_  
ASBUILT # \_\_\_\_\_ MAP # \_\_\_\_\_  
STORM DRAINAGE: \_\_\_\_\_  
WATER SERVICE LEVEL: \_\_\_\_\_ CODE: \_\_\_\_\_ PS: \_\_\_\_\_  
SIDEWALK: \_\_\_\_\_

APPROVAL STAMPS



September 15, 2023

Affinity Estates Lot 44  
6731 Devon Ave  
Salem, OR 97306

The reason for removal of the tree from Lot 44, is it basically renders that lot unbuildable. We will make up for removing it by planting more trees on the lot.

Thank you,  
Wind River Homes  
PO Box 9212  
Brooks, OR 97305  
503-983-9188  
[windriverhms@gmail.com](mailto:windriverhms@gmail.com)